

Department of Health & Human Services  
Centers for Medicare & Medicaid Services  
61 Forsyth St., Suite 4T20  
Atlanta, Georgia 30303-8909



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February 9, 2011

Neville Wise, Acting Commissioner  
Department for Medicaid Services  
275 East Main Street, 6W-A  
Frankfort, Kentucky 40621-0001

Re: Kentucky Title XIX State Plan Amendment, Transmittal #10-013

Dear Mr. Wise:

We have reviewed the proposed amendment to the Kentucky Medicaid State Plan that was submitted under transmittal number 10-013. This State Plan Amendment addresses the new requirements regarding Estate Recovery under section 1917(b)(1) of the Social Security Act by encouraging dual eligible beneficiaries to fully utilize Medicare cost-sharing benefits available through the Medicare Savings Program.

Based on the information provided, we are now ready to approve the Kentucky Medicaid State Plan Amendment 10-013. The effective date for this amendment is October 1, 2010. We are also enclosing the approved HCFA-179 and plan pages.

If you have any questions or need any further assistance, please contact Rita Nimmons at (404) 562-7415.

Sincerely,

Jackie Glaze  
Associate Regional Administrator  
Division of Medicaid & Children's Health Operations

Enclosures

**TRANSMITTAL AND NOTICE OF APPROVAL OF  
STATE PLAN MATERIAL**

**FOR: HEALTH CARE FINANCING ADMINISTRATION**

TO: REGIONAL ADMINISTRATOR  
HEALTH CARE FINANCING ADMINISTRATION  
DEPARTMENT OF HEALTH AND HUMAN SERVICES

1. TRANSMITTAL NUMBER:  
10-013

2. STATE  
Kentucky

3. PROGRAM IDENTIFICATION: TITLE XIX OF THE  
SOCIAL SECURITY ACT (MEDICAID)

4. PROPOSED EFFECTIVE DATE  
10/1/2010

5. TYPE OF PLAN MATERIAL (*Check One*):

☐ NEW STATE PLAN ☐ AMENDMENT TO BE CONSIDERED AS NEW PLAN ☒ AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (*Separate Transmittal for each amendment*)

6. FEDERAL STATUTE/REGULATION CITATION:  
Section 1917(b)(1) of the Act

7. FEDERAL BUDGET IMPACT:  
a. FFY 2011 - Budget Neutral  
b. FFY 2012 - Budget Neutral

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:

Page 53a.1  
Page 53a

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION  
OR ATTACHMENT (*If Applicable*):

New  
Same

10. SUBJECT OF AMENDMENT

This State Plan Amendment confirms that Kentucky Medicaid will exempt Medicare cost sharing benefits paid under the MSPs from estate recovery

11. GOVERNOR'S REVIEW (*Check One*):

☐ GOVERNOR'S OFFICE REPORTED NO COMMENT  
☐ COMMENTS OF GOVERNOR'S OFFICE ENCLOSED  
☐ NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

☒ OTHER, AS SPECIFIED: Review delegated  
to Commissioner, Department for Medicaid  
Services

12. SIGNATURE OF STATE AGENCY OFFICIAL:

*Neville J. Wise*

13. TYPED NAME: Neville Wise

14. TITLE: Acting Commissioner, Department for Medicaid Services

15. DATE SUBMITTED: December 3, 2010

16. RETURN TO:

Department for Medicaid Services  
275 East Main Street 6W-A  
Frankfort, Kentucky 40621

**FOR REGIONAL OFFICE USE ONLY**

17. DATE RECEIVED:

*12-03-10*

18. DATE APPROVED:

*02/08/11*

PLAN APPROVED - ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL:

*10/01/10*

21. TYPED NAME:

Jackie Glaze

20. SIGNATURE OF REGIONAL OFFICIAL:

*Jackie Glaze*

22. TITLE:

Associate Regional Administrator  
Division of Medicaid & Children's Health Opns

23. REMARKS:

Revision: HCFA-PM-95-3 (MB)  
May 1995

Revised

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: Kentucky

(b) Adjustments or Recoveries

The State complies with the requirements of section 1917(b) of the Act and regulations at 42 CFR 433.36 (h)(i).

Adjustments or recoveries for Medicaid claims correctly paid are as follows:

- (1) For permanently institutionalized individuals, adjustments or recoveries are made from the individual's estate or upon sale of the property subject to a lien imposed because of medical assistance paid on behalf of the individual for services provided in a nursing facility, ICF/MR, or other medical institution.  
☐ Adjustments or recoveries are made for all other medical assistance made on behalf of the individual.
- (2) ☒ The State determines "permanent institutional status" of individuals under the age of 55 other than those with respect to whom it imposes liens on real property under §1917(a)(1)(B) (even if it does not impose those liens).
- (3) For any individual who received medical assistance at age 55 or older, adjustments or recoveries of payments are made from the individual's estate for nursing facility services, home and community-based services, and related hospital, and prescription drug services.  
☒ In addition to adjustment or recovery of payments for services listed above, payments are adjusted or recovered for other services under the State plan as listed below:  
  
Recover for physician services related to the above mandatory services, for individuals age 55 and over. Aside from these limited mandatory services and related physician services, there is no other recovery, including Medicare Cost Sharing as identified in Section 4.17(b)(3) (Continued).

Revision: HCFA-PM-95-3 (MB)  
May 1995

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: Kentucky

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4.17 (b) Adjustments or Recoveries

(3) (Continued)

Limitations on Estate Recovery - Medicare Cost Sharing:

- (i) Medical assistance for Medicare cost sharing is protected from estate recovery for the following categories of dual eligibles: QMB, SLMB, QI, QDWI, QMB+, SLMB+. This protection extends to medical assistance for four Medicare cost sharing benefits: (Part A and B premiums, deductibles, coinsurance, co-payments) with dates of service on or after January 1, 2010. The date of service for deductibles, coinsurance, and co-payments is the date the request for payment is received by the State Medicaid Agency. The date of service for premiums is the date the State Medicaid Agency paid the premium.
- (ii) In addition to being a qualified dual eligible the individual must also be age 55 or over. The above protection from estate recovery for Medicare cost sharing benefits (premiums, deductibles, coinsurance, co-payments) applies to approved mandatory (i.e., nursing facility, home and community-based services, and related prescription drugs and hospital services) as well as optional Medicaid services identified in the State plan, which are applicable to the categories of duals referenced above.

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TN No.: 10-013  
Supersedes  
TN No.: None

Approval Date: 02-08-11

Effective Date: October 1, 2010